

Taylor Reporting

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IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

R.A.Jr., (a minor child,)

by and through his)

Father and next best)

friend, Richard Lemmel)

Arnold,)

Plaintiff,)

VS.)

DEPUTY SHERIFF WALTER)

LACEY, in his official)

And individual capacity,)

Defendant.)

C O P Y

CASE NUMBER:

3:06-CV-337-WHA

T R A N S C R I P T of testimony taken
stenographically of DEPUTY WALTER LACEY, by and
before Patricia Taylor, CSR, AL-CSR-369, and
Notary Public of the State of Alabama, at the law
office of Ball, Ball, Matthews & Novak, 2000
Interstate Park Drive, Suite 204, Montgomery,
Alabama on October 18, 2006 at approximately
11:00 a.m.

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1 Q You don't remember?

2 A No.

3 Q Do you remember what your paycheck was
4 per week?

5 How did you get paid? Monthly?

6 A We were paid every two weeks but
7 that's been so long I don't remember how much it
8 was.

9 Q How long were you with the Tuskegee
10 Police Department?

11 A Two years.

12 Q So you were there until 2004?

13 A Yes, ma'am.

14 Q And you don't remember how much you
15 were making?

16 A No, ma'am.

17 Q When you left the Tuskegee Police
18 Department, where did you go from there?

19 A To the Macon Sheriff's Department.

20 Q Why did you leave Tuskegee to go to
21 the sheriff's department?

22 A It was a better position.

23 Q When you say "better position," what

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1 sheriff's deputy?

2 A I work night shift.

3 Q And is night shift the same? What are
4 the hours?

5 A 7:00 p.m. to 7:00 a.m.

6 Q And how many days a week?

7 A The shifts rotate so one week is five
8 days, one week is two days.

9 Q So every other week you work five
10 days?

11 A Yes, ma'am.

12 Q And then the next week you work two
13 days and you're off the others?

14 A (Nodding head affirmatively.)

15 Q And how often does it rotate? Or is
16 that your regular shift since you have been
17 there?

18 A Yes, ma'am.

19 Q Okay. Now when did you attend the
20 police academy?

21 A November of 2002 until February of
22 2003.

23 Q Now, when you first started as a

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1 A Well it was five days a week.
2 Sometimes it varied, but no more than eight.

3 Q I mean, was it an all-day thing?

4 A Yes, ma'am.

5 Q Were you still working with the
6 Tuskegee Police Department whilst you were doing
7 your post-training?

8 A I was strictly assigned to being in
9 the academy at that time.

10 Q Okay.

11 A I was employed by the Tuskegee Police
12 Department.

13 Q So you weren't on patrol during that
14 period?

15 A No, ma'am.

16 Q Were you still being paid by the
17 Tuskegee Police Department?

18 A Yes, ma'am.

19 Q Now, what weapons were you trained to
20 use at the police academy?

21 A We had firearms training. We had
22 chemical weapons training.

23 Q What is chemical weapons?

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1 A OC Spray.

2 Q What does OC stand for?

3 A Mace.

4 Q It's mace?

5 A Yes, ma'am. And also the ASP baton.

6 Q And when you say -- Could you spell
7 that?

8 A ASP.

9 Q Oh, okay. ASP?

10 A Uh-huh (affirmative response).

11 Q I never heard it called that. A-S-P.

12 Does A-S-P stand for something or is that --

13 A I'm not sure.

14 Q Any other weapons that you were
15 trained on at the police academy?

16 A No, ma'am.

17 Q Do you carry all three of those with
18 you all of the time as a police officer?

19 A Yes, ma'am.

20 Q Now, what did your -- and I'm
21 particularly interested in the baton. What was
22 your training as far as the use of the baton?

23 A That is just a curriculum that they

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1 give on it; body location.

2 Q Is it a written curriculum?

3 A It's written and hands-on.

4 Q Does the written curriculum explain
5 when you would use force or is that a separate
6 class?

7 A It's all, I guess, together.

8 Q Were you trained when you would use a
9 baton? What situations?

10 A No. We were trained that each
11 situation dictates itself.

12 Q Okay. And were you given any
13 parameters or limitations on when it would be
14 acceptable to use a baton?

15 A I'm sorry?

16 Q Were you given situation types? I
17 mean, were you told, for instance, that if you're
18 being attacked it would be okay to use your
19 baton?

20 A We were trained --

21 Q Things like that.

22 MR. SHEEHAN: Object to the
23 form.

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1 A I had applied for it with the State.

2 Q So you started with the Macon
3 Sheriff's Department in 2004?

4 A Yes, ma'am.

5 Q And you left to go to the marine
6 police on Lake Martin in 2006?

7 A Yes, ma'am.

8 Q What is your rate of pay with the
9 marine police?

10 A I would prefer not to disclose how
11 much money I make. I'm sorry.

12 MR. SHEEHAN: Is that really
13 relevant?

14 MS. RICHARDSON: Well, I
15 mean --

16 BY MS. RICHARDSON:

17 Q -- you put on your answers to
18 interrogatories that you changed jobs because it
19 was better pay. So --

20 A No, my answer on the interrogatories
21 was a better position.

22 Q Is it better --

23 A It was a State job with better

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1 Q Have you ever had to fire your weapon
2 on a citizen in the course of your job duties?

3 A No, ma'am.

4 Q And you don't recall ever having a
5 citizen complain, lodge a complaint against you
6 with the Tuskegee Police Department, the
7 sheriff's department or Victoryland?

8 A No, ma'am.

9 Q Or your marine patrol job?

10 A No, ma'am.

11 Q Now, we are here, of course, about an
12 incident that happened at a football game at
13 Booker T. Washington High School on October 7,
14 2005. You understand that?

15 A Yes.

16 Q Now, you were a deputy sheriff. Were
17 you on patrol that night or were you working a
18 side job?

19 A I was working a side job contracted
20 through the sheriff's department by the Board of
21 Education.

22 Q Okay. So, was that, like, a regular
23 assignment that the sheriff's department gave you

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1 or did you volunteer to take those assignments?

2 A We were asked by other deputies if we
3 wanted to work that game as a side job.

4 Q When did you arrive at the game?

5 A I believe it was about 6:00 or 6:30
6 p.m. that day.

7 Q Did you help with traffic control as
8 the people came into the game?

9 A No, ma'am.

10 Q Did you have specific assignments in
11 the stadium or on the grounds?

12 A Yes, ma'am. I was assigned to the
13 inside of the football game.

14 Q Now, were there any other incidents
15 whilst you were inside the stadium before you
16 came outside?

17 A No, ma'am.

18 Q Now, how were you alerted to the fact
19 that something was going on outside?

20 A We had started to leave the game
21 already and while we were walking out, a group of
22 students ran up to where we were and told us that
23 there some people in the parking lot that had a

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1 gun. They didn't give us any specifics on what
2 they were wearing. And about the time we started
3 moving to it, Deputy Whitlow called on the radio
4 and advised they had an altercation going on and
5 somebody was supposed to have a gun.

6 Q So he said over the radio that someone
7 had a gun in the parking lot?

8 A He used the radio code for it.

9 Q What's the radio code for it?

10 A There was a subject in the parking lot
11 that was supposed to have a 10-32 but he wasn't
12 sure.

13 Q And a 10-32 means a gun?

14 A Yes.

15 Q So you got that over the radio and
16 some folks had said something to you that were
17 coming back into the stadium?

18 A They were leaving away from the
19 situation.

20 Q And you were how far inside the
21 stadium?

22 A I was not inside the stadium. I was
23 at the gate exiting the stadium.

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1 Plaintiff's Exhibit 3, A and B.

2 Do you see in either of those pictures
3 where the fighting was going on?

4 A No, ma'am.

5 Q Did you begin to run when you got
6 called over the radio?

7 A Yes, ma'am.

8 Q And were there other officers with
9 you?

10 A Yes, ma'am.

11 Q Who was with you?

12 A At that time there was Deputy
13 Washington and Deputy Walker. Officer Motley
14 started out with us and he turned and went the
15 other way. When we came out of the gate, he made
16 a left instead of making a right.

17 Q When you came out of the gate, could
18 you see the fighting there? Could you see it
19 from the gate?

20 A No, ma'am.

21 Q No?

22 A (Shaking head negatively.)

23 Q And you can't say what distance you

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1 had to run?

2 A No, ma'am.

3 Q Did it take you seconds to get there
4 or minutes?

5 A I didn't take minutes. I will assume
6 seconds.

7 Q When were you able to see what was
8 going on?

9 A When we got closer to the first fight
10 we were able to see it.

11 Q You said the first fight, so describe
12 the first fight that you saw.

13 A The first fight we came upon there was
14 a black male laying on the ground.

15 Q Okay.

16 A There were eight to ten other black
17 males standing around him kicking him.

18 Q Did you break up that fight?

19 A Yes, ma'am.

20 Q And how did you break that fight up?

21 A Disbursing the kids off the guy that
22 was on the ground. I'm not sure which other
23 deputy it was, if it was Walker or Washington,

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1 picked him up off the ground so they wouldn't get
2 him again.

3 Q Did you holler at them? Did you grab
4 them?

5 A We went to the fight and started
6 pushing people away from him.

7 Q Were they standing there? I mean,
8 were they on the ground or were people just
9 standing around this person on the ground?
10 Describe the scene for me.

11 A Like I said, there was at least eight
12 to ten black males over him; they were kicking
13 him. They weren't just standing still or laying
14 there with him, they were over him kicking him.

15 Q Kicking him. Okay. And what did you
16 do?

17 A We disbursed the fight.

18 Q Well, you say we disbursed the fight
19 but that doesn't tell me what you physically did
20 and that's what I want to know.

21 MR. SHEEHAN: Object to the
22 form.

23 BY MS. RICHARDSON:

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1 Q Can you describe for me -- did you
2 pull somebody? Did you take your baton out? Did
3 you take your gun out? Did you holler? Can you
4 explain to me what you did when you approached
5 the first fight?

6 A Like I said, we started pushing people
7 out of the fight that were kicking him, pushing
8 folks away from him. There was one person that
9 returned to the fight several times after he had
10 been pushed away. He kept coming back. Every
11 time we pushed him away from the fight, he'd
12 circle around and come right back and kick him
13 again.

14 Q Did you arrest that person?

15 A We tried to do.

16 Q Okay. Tell me how you tried to.

17 A Okay. We finally took him -- physical
18 control of him. Put him on the ground; told him
19 to stay there. Because we could see Deputy
20 Whitlow in the middle of another fight.

21 Q Okay.

22 A When we told him to stay there, he
23 didn't stay there; he left.

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1 Q And there were three officers with
2 you; right?

3 A No, ma'am. We had all split up then.
4 Like I said, one of them -- one of them took the
5 guy and took him -- the one that was being kicked
6 -- and took him away so they couldn't kick him
7 again.

8 Then I put the guy on the ground and
9 told him to stay there and I left to go where
10 Whitlow was. I don't know where everybody else
11 went then.

12 Q Did anybody interview or talk to the
13 person who was getting kicked?

14 A We spoke with him after everything was
15 over with. He was a relative of the ones that
16 was arrested.

17 Q Was he a cousin of Quadarius Johnson?

18 A He was a relative. I don't know what
19 relation he was.

20 Q Was he arrested also?

21 A No.

22 Q Do you know the name of the person who
23 was on the ground?

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1 You told him to stay on the ground.

2 We are at that spot.

3 A Told him to stay on the ground because
4 I could see Deputy Whitlow still struggling and
5 there was nobody there to help him.

6 Q Okay.

7 A So I left him on the ground and I went
8 to go and help Deputy Whitlow.

9 Q And, so, Deputy Whitlow was in your
10 line of sight?

11 A Yes, ma'am.

12 Q Did it take you seconds to get to
13 where he was?

14 A Yeah, it took seconds.

15 Q And what was going on when you saw
16 Deputy Whitlow? What was going on with him?

17 A He was there with his back turned to
18 me and he was holding two different male subjects
19 with his -- out to his side with his arms.

20 Q Okay.

21 A He was trying to keep them apart. The
22 one that was later identified as Johnson had --
23 he wasn't resisting. He wasn't still fighting.

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1 You know, he was being held. There was another
2 one over that was off to the side that was still
3 swinging and flailing, you know, over --

4 Q Was that the one that he was holding
5 or was that the other one -- I mean, was that
6 somebody else?

7 You said he was holding two people.

8 A He was holding two people.

9 Q Right.

10 A He was holding Johnson and he was
11 holding this other person that was still
12 swinging.

13 Q Okay.

14 A Johnson had become complacent --
15 compliant. And another subject came up behind
16 Deputy Whitlow as I was coming to assist him and
17 reached over Deputy Whitlow and started swinging
18 at Johnson along with this other person that he
19 was holding so now there is three. Deputy
20 Whitlow and three other people.

21 Q All right.

22 A Someone was swinging over Deputy
23 Whitlow, he lost control of this person that he

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1 A Behind me? What do you mean?

2 Q I mean, behind Whitlow.

3 A Okay. Yeah, he was behind Whitlow.

4 Whitlow still had ahold of Johnson.

5 Q And did he have ahold of the other
6 person or had that person --

7 A No.

8 Q -- run off?

9 A During my run over to help Whitlow,
10 this person had swung over Whitlow and caused him
11 to lose control of the other one and that one ran
12 off.

13 Q So that one ran off?

14 A Yes.

15 Q So you're standing behind Officer
16 Whitlow. Now he has Quadarius Johnson in both
17 hands?

18 A Yeah, he has got both hands on
19 Quadarius Johnson but he's trying to get himself
20 loose from whoever this is over his shoulder.

21 Q So when you approached that scene,
22 what did you do?

23 A That's when I grabbed this person that

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1 was behind Deputy Whitlow, I grabbed him by the
2 back of his pants and tried to pull him away.

3 Q Okay.

4 A He was holding onto something. Like I
5 said, I couldn't see what exactly he had but he
6 was over Whitlow. I pulled and I couldn't get
7 him loose. I even used my other hand that I just
8 had -- I had my baton in that hand but I grabbed
9 him up here and tried to pull him down. He was
10 holding on to whatever it was so tight and he was
11 still pulling over trying to get over the top of
12 Whitlow.

13 Q When you pulled him away, I mean, did
14 that affect Officer Whitlow? Was he pulled back
15 or anything?

16 A I couldn't pull the person away is
17 what I'm saying. I tried to pull him, he didn't
18 move.

19 Q What did you say to him?

20 A "Get on the ground."

21 Q Okay.

22 A He never turned loose. He never did
23 move. I kept pulling.

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1 Q So you had your baton in your hand
2 because you had just left this other fight?

3 A Yes.

4 Q And?

5 A After I couldn't get him to let go, I
6 struck him twice in his thigh area, once in his
7 forearm. When I hit him in the forearm, he
8 turned loose and he started to the ground. Just
9 as he went almost to the ground -- he was pulling
10 away still. I couldn't tell what he was trying
11 to pull back to do, or whatever he was still
12 holding onto it. I didn't strike him any more
13 with the baton. As a matter of fact, I dropped
14 the baton after that.

15 Q Okay.

16 A I started taking him to the ground, he
17 snatched loose and he ran off. I gave chase. I
18 don't know, maybe 15, 20 feet. But I had to
19 rethink. Deputy Whitlow still had somebody that
20 had a gun. I turned around and went back. I
21 took him to the car where he patted Willis down
22 -- not Willis. Johnson down. That's when he
23 found the gun in his right rear pocket.

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1 later that night --

2 A No.

3 Q -- after this happened?

4 A No, ma'am.

5 Q You didn't have any other police calls
6 after the game let out and people started coming
7 out?

8 A No, ma'am.

9 Q When Officer Whitlow had the two boys
10 in his hands, was he saying anything to you?

11 A No. I came from behind him. I don't
12 know if he ever even saw me.

13 Q Was he saying anything to the boys?

14 A I can't recall.

15 Q Were you afraid that you were going to
16 get hurt?

17 A That's a broad question. Can you
18 narrow it down?

19 Q When you approached Deputy Whitlow,
20 were you afraid that you were going to get hurt?

21 A At that time I was more concerned
22 about him. I could have got hurt, but somebody
23 had him from behind. I was more concerned about

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1 him than me.

2 Q All right. You don't recall whether
3 he was hollering or asking for assistance or
4 anything like that? Talking about Deputy
5 Whitlow.

6 A I can't say. I don't remember.

7 Q You don't remember?

8 A (Shaking head negatively.)

9 Q When y'all got back to the car and you
10 had Quadarius Johnson and he had been arrested
11 and was in the patrol car and you all talked to
12 each other at that point, did you and Deputy
13 Whitlow talk to each other?

14 A No, ma'am.

15 Q None?

16 A (Shaking head negatively.)

17 Q Did you talk to each other when you
18 got to the police station?

19 A No, ma'am.

20 Q Did you write a report also that
21 night?

22 A Yes, ma'am.

23 Q Okay.

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1 handwriting?

2 A Yes, ma'am.

3 Q Is there a reason why you didn't sign
4 the bottom?

5 A I didn't realize that I didn't.

6 Q Now, it says on 10/7/05, which is the
7 night of the football game, a report was done in
8 reference to a large fight in the rear of the
9 Booker T. Washington High School. At the time of
10 the original report, there was no name or
11 information for the suspect. Did you write a
12 report that night?

13 It says that you wrote a report. "In
14 the original report." Do you know where that
15 original report would be?

16 A No, ma'am, I don't know where it is.

17 Q Did you write one that night without
18 putting a name in it?

19 A Yes, ma'am.

20 Q And if you look at the next page, is
21 that your writing on that page?

22 A Yes, ma'am.

23 Q Now, that report says the date and

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1 A It's checked "misdemeanor" on here.

2 Q Okay. Now, tell me how you came to
3 charge Richard Arnold, Jr. with this crime.

4 How did you know to charge Richard
5 Arnold, Jr.?

6 How did you know he was one of the
7 suspects?

8 A It says it right here on the previous
9 page.

10 Q Okay. Because his parents came down
11 and complained?

12 MR. SHEEHAN: Object to the
13 form.

14 BY MS. RICHARDSON:

15 Q "The parent of the suspect came to
16 Macon County jail and identified their child as
17 Richard Arnold, Jr."

18 A Uh-huh (affirmative response).

19 Q And how did you know Richard Arnold,
20 Jr. was the suspect in this case?

21 A There were only two individuals struck
22 and both of them were fighting.

23 Q Okay.

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1 A I wouldn't charge an innocent person.

2 Q That would be -- as far as you were
3 concerned, Richard Arnold, Jr. was either one of
4 the eight people kicking the child on the ground;
5 is that right?

6 A No, ma'am.

7 Q No? Then who would he have been?
8 There were two incidents so which one of those
9 would it be?

10 A From the second incident.

11 Q He was the one that was standing
12 behind Officer Whitlow then. Is what you are
13 saying?

14 A Yes, ma'am.

15 Q Now, you hit two people with your
16 baton; correct?

17 A Yes, ma'am.

18 Q But Richard Arnold, as far as you were
19 concerned at this time when you filled out this
20 report, was the one standing behind Deputy
21 Whitlow?

22 A Yes, ma'am.

23 Q Now, if you would look at the last

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1 mean?

2 Q No. When you're going -- okay. When
3 you are going to swear out a warrant on a
4 juvenile or you want to have a juvenile arrested
5 for a crime that was not committed in your
6 presence or it's after the fact, what is the
7 procedure that you go through?

8 A You complete your report, of course,
9 and you take your report down to the juvenile
10 court office and they attend to it from there.

11 Q So all you have to do is take your
12 report down to the juvenile office; right?

13 A Uh-huh (affirmative response).

14 Q So this would be the complaint that
15 you took down to the juvenile court officer?

16 A This is not what I took down there,
17 no.

18 Q You signed it right here?

19 A This is what they printed out.

20 Q Okay. They printed it out and you
21 signed it; right?

22 A Yes, ma'am.

23 Q And that was done on the date that is

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1 in the bottom corner? It says December 2, 2005
2 at 10:52 a.m.?

3 A That's not when I took the report
4 down, no.

5 Q When did you take the report down?

6 A I can't give you an exact date but it
7 was the week immediately following the incident.

8 Q When you say took the report down,
9 what report are you talking about?

10 A The I&O report. One of the exhibits
11 that you just showed.

12 Q The incident/offense report you took
13 to who?

14 A I gave it to Mrs. Moon.

15 Q Who is Mrs. Moon?

16 A She is one of the administrative
17 assistants there.

18 Q Now, once you give the report to Mrs.
19 Moon, you have no other involvement?

20 MR. SHEEHAN: Object to the
21 form.

22 BY MS. RICHARDSON:

23 Q Do you do anything else once you take

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1 your report down there? Do you talk to anybody?
2 Do you follow-up on it? I mean, do you do
3 anything?

4 A I'm not understanding.

5 Q You said you took your incident down
6 to Mrs. Moon. You just left it there.

7 A That's because neither one of the
8 intake officers was in, Mr. Hartman and Mr.
9 Maxwell were out and they were supposed to
10 contact me as soon they came in. When they
11 actually did this thing in the computer, they
12 were supposed to call me.

13 Q So this thing in the computer is what
14 starts the arrest process?

15 A Yes, ma'am.

16 Q And although you say you took your I&O
17 report to Mrs. Moon the following week after, it
18 was not until December when the warrant was
19 issued; is that correct?

20 A Yes, ma'am.

21 Q Did you have to go to Mrs. Moon or any
22 of the intake officers to make sure that this
23 warrant was issued?

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1 A Yes, ma'am. I checked up behind one
2 of my cases and that's when I found out it had
3 not been done.

4 Q And that was in December when you
5 checked up on that?

6 A (Nodding head affirmatively.)

7 Q Look at the second page. Now, is that
8 the actual warrant that's issued? Do you
9 recognize that?

10 A I don't know.

11 Q Have you ever delivered warrants on
12 juvenile cases before?

13 A No, ma'am.

14 Q No? Is that left to the juvenile
15 officers?

16 A I'm not sure how it goes.

17 Q Did you attend the trial of Quadarius
18 Johnson?

19 A No, ma'am.

20 Q Did you attend the trial of Marcus
21 Johnson?

22 A No, ma'am.

23 Q Do you know what the outcome of either

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1 A No, ma'am.

2 Q What are the other reasons?

3 MR. SHEEHAN: Object to the
4 form.

5 A I don't get what you are saying.

6 BY MS. RICHARDSON:

7 Q What was the reason? Why you charged
8 him with a crime?

9 A Because the commission of the crime
10 only identified him by his parents.

11 Q Okay.

12 A I didn't charge him because of his
13 parents, no.

14 Q When you were listening to Richard
15 Arnold, Jr., and Ronald, his brother, testify a
16 few weeks back. You were at the deposition;
17 correct?

18 A Yes, ma'am.

19 Q Is there anything that Richard Arnold
20 said that you disagree with?

21 MR. SHEEHAN: Object to the
22 form of the question.

23 A I can't go back on everything that was